

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.
2. Authorization for this examiner's amendment was given in a telephone interview with Mr. Brian Stegman on March 11, 2010.
3. The application has been amended as follows:

**A.** Claim 10 has been amended to read in favor of:

--10. (Previously presented) A pharmaceutical composition comprising at least one compound according to any one of claims 20 to 23 and a pharmaceutically acceptable carrier material. --

**B.** Claim 15 has been amended to read in favor of:

--15. (Currently Amended) A method of preventing or treating insomnia comprising administering to a subject in need thereof an effective amount of the compound according to any one of claims 20 to 23.--

**C.** Claims 17, 19, and 26 have been cancelled.

### **REASONS FOR ALLOWANCE**

The following is an examiner's statement of reasons for allowance:

4. Based upon the response filed December 8, 2009, the rejection under 35 U.S.C.112, 2<sup>nd</sup> paragraph, and 35 U.S.C. 103(a) based upon Acetion Pharmaceuticals are withdrawn.

5. The sleep disorder, insomnia, is rejoined with the invention of Group I. At pages 1-3 and 32-36, support is found. As such, the rejection based upon 35 U.S.C. 112, 1<sup>st</sup> paragraph is withdrawn.
6. Claims 10 and 15 have been amended to improve the clarity. The changes are not made to avoid any possible rejections based upon prior art.
7. The Information Disclosure Statement filed December 8, 2009 has been considered. The references alone or in combination forms do not teach nor suggest the invention as instantly claimed. There is no motivation to modify the prior art references to derive the claimed compounds. Accordingly, claims 10, 15, and 20-23 are allowed.
8. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zinna N. Davis whose telephone number is 571-272-0682.
10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Zinna Northington Davis/  
**Zinna Northington Davis**  
**Primary Examiner**  
**Group 1600-AU 1625**

Znd  
03.11.2010